

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

Before the Court is plaintiff's post-dismissal motion for extension of time to pay the filing fee which was received by the Court on February 21, 2024. *See* ECF No. 11.

Plaintiff, a prisoner incarcerated at St. Louis County Justice Center, filed this civil rights action on January 9, 2024. [ECF No. 1]. However, because plaintiff failed to file his complaint on a court-provided form, *see* Local Rule 2.06(A), or file a motion to proceed in forma pauperis or pay the filing fee of \$405, the Court, on January 10, 2024, ordered plaintiff to submit an amended complaint and either a motion to proceed in forma pauperis or pay the full filing fee. [ECF No. 3]. The Court noted in the January 10, 2024 Memorandum and Order, that plaintiff was a three striker within the confines of 28 U.S.C. § 1915(g)¹; thus, in order to proceed in forma pauperis in this action, he would need to show he was under “imminent danger of serious physical injury.” *See* 28 U.S.C. § 1915(g). Despite this warning, on January 29, 2024, plaintiff filed both an amended complaint and a motion for leave to proceed in forma pauperis. [ECF Nos. 3 and 5]. After a review of the amended complaint, the Court found that plaintiff was unable to proceed as a pauper in this

¹See *Phillips v. St. Louis City Police Officers*, No. 4:17-cv-1637-HEA (E.D. Mo. Jan. 10, 2018); *Phillips v. Romeo*, No. 4:17-cv-1636-NAB (E.D. Mo. Aug. 4, 2017); *Phillips v. City of St. Louis*, No. 4:11-cv-791-CEJ (E.D. Mo. May 19, 2011).

action because his pleading did not indicate he was in imminent danger of serious physical injury. Thus, on January 30, 2024, the Court denied plaintiff's motion to proceed in forma pauperis and dismissed this action "without prejudice to plaintiff refiling a fully-paid complaint." [ECF Nos. 6 and 7].

On February 9, 2024, after the dismissal of this case, the Court received a \$405 check from plaintiff to pay the full filing fee in this action. [ECF No. 10]. On February 21, 2024, plaintiff filed a motion for extension of time to pay the filing fee. Unfortunately, as set forth in both the Court's January 30, 2024 Memorandum and Order and Order of Dismissal, this action was dismissed "without prejudice to plaintiff refiling a fully-paid complaint." The Court will not reopen this action, but instead, plaintiff's filing fee will be returned to him so that he may refile a new complaint if he so chooses.

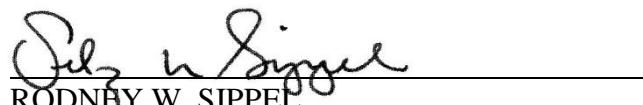
Accordingly,

IT IS HEREBY ORDERED that plaintiff's post-dismissal motion for extension of time to pay the filing fee [ECF No. 11] is **DENIED**.

IT IS FURTHER ORDERED that the Clerk shall return to plaintiff the \$405 filing fee paid in this action.

IT IS FURTHER ORDERED that an appeal of this Order shall not be taken in good faith.

Dated this 27th day of February, 2024.


RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE